

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BOHANNON R. MILLER,)	CASE NO. 1:18CV770
)	
Petitioner,)	JUDGE CHRISTOPHER A. BOYKO
)	
vs.)	
)	
TOM SCHWEITZER, Warden,)	<u>ORDER</u>
)	
Respondent.)	

CHRISTOPHER A. BOYKO, J:

On March 22, 2018, Petitioner Bohannon R. Miller mailed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2554. (ECF #1). The Court referred the case to Magistrate Judge Burke pursuant to Local Rule 72.2. (ECF #5). Respondent filed a Motion to Dismiss for failure to exhaust state court remedies (ECF #9) and Petitioner responded. (ECF #10). On December 28, 2018, the Magistrate Judge recommended that (1) the Court grant Respondent's Motion to Dismiss in part, and permit Petitioner to file an amended Petition dropping his unexhausted claim (Ground 2); and (2) if Petitioner fails to amend his Petition, that the Court grant Respondent's Motion and dismiss the entire Petition without prejudice. (ECF #11).

Federal Rule of Civil Procedure 72(b) provides that objections to a report and recommendation must be filed within fourteen days after service. FED. R. CIV. P. 72(b)(2). Neither Petitioner nor Respondent have timely filed any such objections. Therefore, the Court

must assume that both are satisfied with the Magistrate Judge's recommendation. Any further review by this Court would be duplicative and an inefficient use of the Court's limited resources. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

Accordingly, the Court **ADOPTS** the Interim Report and Recommendation of the Magistrate Judge, **GRANTS, IN PART** Respondent's Motion to Dismiss and **ORDERS** that Petitioner amend his Petition by deleting his unexhausted Ground 2 within twenty-one days of the date of this Order. If Petitioner fails to amend as outlined herein, the Court will dismiss the Petition without prejudice.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

Dated: January 29, 2019